

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

BRANDON EDWARD NEWHOUSE

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Case No. 4:06cr46
(Judge Schneider)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 27, 2010, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Jay Johnson.

On November 16, 2006, Defendant was sentenced by the Honorable Michael H. Schneider to sixty (60) months' custody followed by five (5) years of supervised release for the offense of Possession of a Firearm in Furtherance of a Drug Trafficking Crime. On May 13, 2010, Defendant completed his period of imprisonment and began service of his supervised term. On October 6, 2010, the U.S. Pretrial Services Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated several mandatory and standard conditions. Violation allegations one, two, and three were dismissed by the Government. The petition also alleged a violation of the following additional mandatory condition: the defendant shall refrain from any unlawful use of a controlled substance. The petition also alleged violation of the following additional standard condition: the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician.

The petition alleges that Defendant committed the following acts with regard to the remaining violations: On June 22, 2010, June 28, 2010, and July 28, 2010, the Defendant submitted urine specimens that tested positive for marijuana. Defendant admitted verbally and in writing to using marijuana on June 19, 2010, and July 25, 2010. All of the urine specimens were confirmed positive by Alere Toxicology Services, and the interpretation report revealed the Defendant reused marijuana in the time between the first two positive urine specimens.

Prior to the Government putting on its case, Defendant entered a plea of true to the remaining violations.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of thirty-seven (37) months with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 27th day of October, 2010.


AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE